FILED
AUG 25 2003
OFFICE OF THE CLERK

No. 02-1377

IN THE

Supreme Court of the United States

BUCK DOE,

Petitioner,

v.

ELAINE L. CHAO, SECRETARY OF LABOR,

Respondent.

On Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit

JOINT APPENDIX

THEODORE B. OLSON
Solicitor General
(Counsel of Record)
DEPARTMENT OF JUSTICE
Washington, D.C. 20530-0001
(202) 514-2217
Counsel for Respondent

DONALD B. AYER
JACK W. CAMPBELL IV
(Counsel of Record)
DOMINICK V. FREDA
AMAR D. SARWAL
JONES DAY
51 Louisiana Avenue, N.W.
Washington, D.C. 20001-2113
(202) 879-3939

JOSEPH E. WOLFE
TERRY G. KILGORE
WOLFE, WILLIAMS
& RUTHERFORD
470 Park Avenue
Norton, VA 24273-0625
(276) 679-0777
Counsel for Petitioner

Petition for Certiorari Filed March 14, 2003
Certiorari Granted June 27, 2003

TABLE OF CONTENTS

Page

Relevant Docket Entries 1

Buck Doe's Complaint in Case No. 97-0056 (Feb. 20, 1997).....9

Stipulation in Case No. 97-0043-B (Feb. 21, 1997) 12

Affidavit of Buck Doe (Aug. 1, 1997).....14

Transcript of hearing in Case No. 97-0043-B (May 6, 1998) 17

RELEVANT DOCKET ENTRIES

I. BEFORE THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF VIRGINIA, CASE NO. 2:97CV56

1.	2/20/97	Complaint filed.
2.	2/20/97	Motion to consolidate case with civil action number 97-0043-B.
3.	5/27/97	Motion to Consolidate Cases 97-43-B, 97-53 through 58-B by Cynthia A. Metzler.
4.	6/4/97	Order granting motion to Consolidate Cases 97-43-B, 97-53 through 58-B.
5.	6/4/97	Consolidated Member Case. Lead Case Number: 2:97-0043.

II. BEFORE THE UNITED STATES DISTRICT COURT WESTERN DISTRICT OF VIRGINIA, CASE NO. 2:97CV43

1.	2/13/97	Complaint and Motion for Temporary and Permanent Injunction.
2.	2/14/97	Order granting motion for the style of the case to be changed to Robert Doe a/k/a Virginia Privacy Litigation, denying motion for Temporary Restraining Order.
3.	2/21/97	Order and Stipulation of parties constituting a complete resolution of the issues raised in Plaintiff's 2/13/07 motion.
4.	5/27/97	Motion to Consolidate Cases 97-43-B, 97-53 through 58-B by Cynthia A. Metzer.
5.	6/4/97	Order granting motion to Consolidate Cases 97-43-B, 97-53 through 58-B.

6.	6/9/97	Answer to Complaint by Cynthia A. Metzler.
7.	7/30/97	Motion for Summary Judgment by Robert Doe.
8.	11/24/97	Cross Motion for Summary Judgment by Cynthia A. Metzler.
9.	12/24/97	Motion to Certify Class Action by Robert Doe et al.
10.	1/23/98	Motion to Stay Discovery by Cynthia A. Metzler.
11.	5/6/98	Motion hearing held at Big Stone Gap, re: motion to certify class action by movants, plaintiff.
12.	7/24/98	Supplemental Motion for Summary Judgment by Cynthia A. Metzler.
13.	3/9/99	Order wherein the motion for Summary Judgment referred to Magistrate Judge Pam M. Sargent, cross motion for Summary Judgment referred to Magistrate Judge Pam M. Sargent, motion for Summary Judgment referred to Magistrate Judge Pam M. Sargent.
14.	4/22/99	Pre-Trial Conference held.
15.	5/4/99	Order, Referring case to Magistrate Judge Pam M. Sargent regarding motion for class certification.
16.	10/29/99	Report and Recommendations of Magistrate Judge Pam M. Sargent.
17.	11/8/99	Objections by R.A. Doe report and recommendations.
18.	12/3/99	Objections by Cynthia A. Metzler report and recommendations.

19.	12/6/99	Motion to Amend complaint by R.A. Doe et al.
20.	12/6/99	Motion for Leave to File Affidavits in Support of Damages by R.A. Doe et al.
21.	5/23/00	In Chambers Motion hearing held re: motion for Leave to File Affidavits in Support of Damages by plaintiffs, and motion to Amend complaint by plaintiffs.
22.	5/24/00	Report and Recommendations of Magistrate Judge Pam A. Sargent.
23.	6/5/00	Objection to report and recommendation by Robert Doe.
24.	6/21/00	Supplemental Objections to report and recommendations by Tays Doe, Robert Doe, Buck Doe, Otis Doe, Thomas Doe, Joe Doe, Charles Doe.
25.	7/24/00	Order granting in part, denying in part motion for Summary Judgment, denying motion to certify class action, granting in part, denying in part cross motion for Summary Judgment. Judgment of $1,000 awarded only to Buck Doe.
26.	7/31/00	Case closed.
27.	9/21/00	Notice of Appeal by Robert Doe.
28.	9/22/00	Notice of Appeal by Cynthia A. Metzler/Alexis M. Herman.

III. BEFORE THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT, CASE NO. 00-2247

1.	9/26/00	Civil case docketed.
2.	10/11/00	Order filed consolidating case 00-2292 with 00-2247.
3.	10/24/00	Order filed substituting party Alexis M. Herman for terminated party Cynthia A. Metzler in 00-2247, party Cynthia A. Metzler in 00-2292.
4.	12/12/00	Certification of ROA complete and retained in the District Court.
5.	2/1/01	Cross-appeal 30(c) briefing order filed.
6.	2/1/01	Page-proof cross-appeal brief filed by Appellant Robert Doe in 00-2247, Appellant Tays Doe in 00-2247, Appellant Buck Doe in 00-2247, Appellant Otis Doe in 00-2247, Appellant Thomas Doe in 00-2247, Appellant Joe Doe in 00-2247, Appellant Charles Doe in 00-2247, Appellee Robert Doe in 00-2292, Appellee Tays Doe in 00-2292, Appellee Buck Doe in 00-2292, Appellee Otis Doe in 00-2292, Appellee Thomas Doe in 00-2292, Appellee Joe Doe in 00-2292, Appellee Charles Doe in 00-2292.
7.	2/27/01	Order filed granting motion to substitute party Elaine L. Chao, Sec. Labor for terminated party Herman, Sec. in 00-2247, party Herman, Sec. in 00-2292.

8.	3/20/01	Page-proof cross-appeal brief filed by Appellee Chao, Sec. in 00-2247, Appellant Chao, Sec. in 00-2292.
9.	5/1/01	Page-proof cross-appeal reply brief by Appellant Robert Doe in 00-2247, Appellant Tays Doe in 00-2247, Appellant Buck Doe in 00-2247, Appellant Otis Doe in 00-2247, Appellant Thomas Doe in 00-2247, Appellant Joe Doe in 00-2247, Appellant Charles Doe in 00-2247, Appellee Robert Doe in 00-2292, Appellee Tays Doe in 00-2292, Appellee Buck Doe in 00-2292, Appellee Otis Doe in 00-2292, Appellee Thomas Doe in 00-2292, Appellee Joe Doe in 00-2292, Appellee Charles Doe in 00-2292.
10.	5/3/01	Rule 30(c) cross joint appendix filed by Appellant Robert Doe in 00-2247, Appellant Tays Doe in 00-2247, Appellant Buck Doe in 00-2247, Appellant Otis Doe in 00-2247, Appellant Thomas Doe in 00-2247, Appellant Joe Doe in 00-2247, Appellant Charles Doe in 00-2247, Appellee Robert Doe in 00-2292, Appellee Tays Doe in 00-2292, Appellee Buck Doe in 00-2292, Appellee Otis Doe in 00-2292, Appellee Thomas Doe in 00-2292, Appellee Joe Doe in 00-2292, Appellee Charles Doe in 00-2292.

11.	5/16/01	Rule 30(c) cross-brief filed by Appellant Robert Doe in 00-2247, Appellant Tays Doe in 00-2247, Appellant Buck Doe in 00-2247, Appellant Otis Doe in 00-2247, Appellant Thomas Doe in 00-2247, Appellant Joe Doe in 00-2247, Appellant Charles Doe in 00-2247, Appellee Robert Doe in 00-2292, Appellee Tays Doe in 00-2292, Appellee Buck Doe in 00-2292, Appellee Otis Doe in 00-2292, Appellee Thomas Doe in 00-2292, Appellee Joe Doe in 00-2292, Appellee Charles Doe in 00-2292.
12.	5/16/01	Rule 30(c) appellant(s) cross-reply brief filed by Appellant Robert Doe in 00-2247, Appellant Tays Doe in 00-2247, Appellant Buck Doe in 00-2247, Appellant Otis Doe in 00-2247, Appellant Thomas Doe in 00-2247, Appellant Joe Doe in 00-2247, Appellant Charles Doe in 00-2247, Appellee Robert Doe in 00-2292, Appellee Tays Doe in 00-2292, Appellee Buck Doe in 00-2292, Appellee Otis Doe in 00-2292, Appellee Thomas Doe in 00-2292, Appellee Joe Doe in 00-2292, Appellee Charles Doe in 00-2292.
13.	5/16/01	Rule 30(c) cross-brief filed by Appellee Chao, Sec. in 00-2247, Appellant Chao, Sec. in 00-2292.
14.	5/16/01	Rule 30(c) Appellee(s) cross-reply brief filed by Appellee Chao, Sec. in 00-2247, Appellant Chao, Sec. in 00-2292.
15.	08/23/01	Supplemental authorities filed by Appellee Chao, Sec. in 00-2247, Appellant Chao, Sec. in 00-2292.
16.	9/26/01	Oral argument heard.

17.	1/24/02	Supplemental authorities filed by Appellee Chao, Sec. in 00-2247, Appellant Chao, Sec. in 00-2292.
18.	3/28/02	Supplemental authorities filed by Appellee Chao, Sec. in 00-2247, Appellant Chao, Sec. in 00-2292.
19.	3/29/02	Supplemental authorities filed by Appellee Chao, Sec. in 00-2247, Appellant Chao, Sec. in 00-2292.
20.	8/29/02	Supplemental authorities filed by Appellee Chao, Sec. in 00-2247, Appellant Chao, Sec. in 00-2292.
21.	9/20/02	Published, authored opinion filed
22.	9/20/02	Judgment order filed. Decision: Affirmed in Part, Reversed in Part, and Remanded. Dissent.
23.	9/25/02	Motion filed by Appellee Chao, Sec. in 00-2247, Appellant Chao, Sec. in 00-2292 to amend opinion.
24.	10/02/02	Order amending opinion filed. Terminated motion to amend opinion.
25.	10/07/02	Order amending opinion filed.

26. 11/4/02 Petition filed by Appellant Charles Doe in 00-2247, Appellant Joe Doe in 00-2247, Appellant Thomas Doe in 00-2247, Appellant Otis Doe in 00-2247, Appellant Buck Doe in 00-2247, Appellant Tays Doe in 00-2247, Appellant Robert Doe in 00-2247, Appellant Dick Doe in 00-2247, Appellee Charles Doe in 00-2292, Appellee Joe Doe in 00-2292, Appellee Thomas Doe in 00-2292, Appellee Otis Doe in 00-2292, Appellee Buck Doe in 00-2292, Appellee Tays Doe in 00-2292, Appellee Robert Doe in 00-2292, for rehearing.

27. 11/15/02 Court Order filed denying motion for rehearing; denying motion for rehearing en banc.

28. 11/25/02 Mandate issued.

IV. BEFORE THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT, CASE NO. 00-2292

1. 10/11/00 Civil case docketed.

2. 10/11/00 Order filed consolidating case 00-2292 with 00-2247.

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
BIG STONE GAP DIVISION

BUCK DOE a/k/a VIRGINIA PRIVACY LITIGATION, PLAINTIFF	)	
V.	)	CIV. ACT. NO 97-0056
CYNTHIA A. METZLER, ACTING SECRETARY OF DEPARTMENT OF LABOR, DEFENDANT	)	

COMPLAINT

The Plaintiff, Buck Doe (a pseudonym), makes the following representations to this Court.

1. The Plaintiff is a resident of the Commonwealth of Virginia and a citizen of the United States of America.

2. The Plaintiff complains of scores of violations of the Privacy Act, 5 U.S.C.S. Sec. 552a, by the Office of Administrative Law Judges, as to his name and Social Security number having been distributed on black lung notices of hearing to other claimants, coal companies, insurance companies, and other attorneys, all in violation of the Privacy Act.

3. He is advised that this is a common practice done to other claimants for black lung, and more specifically, variations of the name and Social Security number is released by all levels of the black lung program including mailings by the Office of Administrative Law Judges (name and Social Security number), mailings by attorneys for the Solicitor's Office (Social Security Number), and also mailings at the appellate level by the Benefits Review Board (Social Security number) all in knowing and intentional

violation of the Act (the latter two as to other claimants). Reference is made to the case of Robert Doe, Civil Action No. 97-0043-B and the exhibits therein are incorporated in and made a part of this Complaint, by reference.

4. These mailings (an institutional practice) are all common place in the black lung program.

5. The problem appears to have been created at the outset of the black lung program by the Office of Workers' Compensation Programs of the Department of Labor when a claimant's Social Security number was made the "OWCP number, i.e. OWCP No. 000-00-0000," and the entire Labor Department has indiscriminately used this number throughout the system as is shown on the exhibits referenced above. It is obvious to anyone that this 9-digit number is a claimant's Social Security number.

6. There have been thousands of violations in these mailings for other claimants in the recent past.

7. The plaintiff alleges that these violations of the Privacy Act have had an adverse effect on him in that his name and Social Security number have been distributed to all others receiving the notice of hearing, and to complete strangers, as part of the ongoing pattern of conduct by the U.S. Department of Labor and that this violates plaintiff's due process of law and a right of privacy under the United States Constitution and specifically violates 5 U.S.C.S. Sec. 552a.

8. The threat of future releases of Plaintiff's Social Security number and/or the release of other claimant's Social Security numbers raises a serious and grave threat to Plaintiff's privacy, security, credit, identity, and his well-being, all being rights that should be protected by the Constitution of the United States, the Privacy Act, and the Labor Department as provided in the Statute.

WHEREFORE, plaintiff seeks to have damages for each and every violation, temporary and permanent injunctions to immediately stop this practice as to himself and all other

black lung claimants who have been similarly affected, by all levels of the Labor Department, and further that the Department of Labor provide him with a new Social Security number and an accounting of each and every violation of the Privacy Act it has caused in his case and for such other and further relief as the nature of this case may require. Plaintiff also asks for the cost of having his credit record researched and that Defendant be required to reimburse him on a permanent basis for such repair of his credit record from research by credit agencies.

BUCK DOE

BY COUNSEL

WOLFE & FARMER
ATTORNEYS AT LAW
P.O. BOX 625
NORTON, VA 24273
(540) 679-0777

BY: /s/
JERRY KILGORE
BAR CODE NO. 26268
COUNSEL FOR PLAINTIFF

BY: /s/
JOSEPH E. WOLFE
BAR CODE NO. 15316
COUNSEL FOR PLAINTIFF

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
BIG STONE GAP DIVISION

ROBERT DOE, Plaintiff	)	
v.	)	
CYNTHIA A. METZLER, ACTING SECRETARY OF DEPARTMENT OF LABOR, Defendant	)	Civil Action No. 97-00043-B

STIPULATION

Plaintiff filed on a "Motion for Temporary Injunction" February 13, 1997 wherein Plaintiff asked the Court for a temporary injunction to prohibit the components of the Department of Labor and its specific divisions that deal with black lung cases from using claimant's Social Security Number on multi-captioned notices of hearings which are mailed to each of the claimants and attorneys for each of the claimants, and to prohibit the Department from the indiscriminate use of the OWCP number incorporating the Plaintiff's Social Security Number.

The parties, herein, stipulate and agree to the following:

1. The Defendant agrees to forthwith stop using the Social Security Number of Plaintiff and the Social Security Numbers of other claimants on multi-captioned, black lung hearing notices and to discontinue the practice of mailing the multi-captioned, black lung hearing notices which bear claimants' Social Security Numbers to the claimants and attorneys listed on said notices.

2. The Defendant further agrees that the employees of the Department of Labor and the specific divisions which

handle the preparation of the notices of hearings in black lung cases will obey the provisions of the Privacy Act. This agreement is not to be construed, however, as an admission by the Defendant that any employee of the Department of Labor or it components or specific divisions violated the provisions of the Privacy Act as alleged by Plaintiff by the use of the multi-captioned black lung hearing notices.

3. Because this stipulation constitutes a complete resolution of the issues raised in Plaintiff's February 13th Motion, and constitutes a resolution of the issues to be presented to the Court during the hearing on the Permanent Injunction set for February 24, 1997, the parties agree that the hearing set for February 24, 1997 should be removed from the Court's docket.

Accordingly, the parties request that the February 24, 1997 hearing be removed from the Court's docket.

/s/	ROBERT P. CROUCH JR.
Joseph E. Wolfe, Esquire	United States Attorney
Counsel for Plaintiff	
/s/	/s/
Jerry W. Kilgore, Esquire	Julie C. Dudley
Counsel for Plaintiff	Assistant United States Attorney
Date: 2/19/97	2/18/97

APPROVED AND SO ORDERED:

/s/
Glen M. Williams
Senior United States District Court Judge

ENTERED: This 20th day of February 1997.

AFFIDAVIT

I, [Buck Doe], of [address], state as follows:

I am a citizen of the Commonwealth of Virginia and the United States of America. I am a retired coal miner, having worked in the mines for 36 years.

In addition to the statements I made in my Complaint (see attached), I want to affirm statements made in my Complaint for myself and also on behalf of other coalminers.

While I am not too well educated, the first thing I noticed about the first hearing was that when I received the notice of hearing it had all the Social Security Numbers and names on the mailing list. I wondered why these were passed out and distributed as they were and if a mistake had been made. I have continued to think about this.

To my knowledge this has now happened to me on each of the hearings, that my name, address, and most important of all my Social Security number has been distributed to scores of other claimants, coal companies, insurance companies, and attorneys.

I am assuming that other individuals like me are greatly concerned and worried about their name, address, and Social Security numbers that are floating around for someone to use. This can cause harm to me and ruin my life and credit and financial future. This harm could be for not only myself, but also for my wife for the rest of her life should I leave this life before her.

I see on the news programs and new magazines almost every month all the people who assume someone's identity and use their Social Security number.

I feel that my privacy has been violated in a way that words cannot describe in that my Social Security number specifically, has been distributed to approximately 55 people that were not suppose to get it. Likewise, it also was distributed before in both of my hearing notices.

I have never given the Department of Labor or any other government agency permission to use my Social Security number to distribute to strangers.

As a retired and disabled coal miner, with over 36 years of work in the mines, I barely make it. I have enough worries just trying to provide for my wife and myself the basic necessities of life such as food, clothing, and shelter. My wife's medicine costs $600 a month. The insurance does not cover all of it. But sometimes it takes 2-3 months to get the money from the insurance company that we paid out for the medicine. A loss of credit caused by the unscrupulous use of my Social Security number or name would be devastating to my wife and myself.

It has torn me all to pieces to realize that my Social Security number has been distributed.

I would like to see this practice stopped not only with the Social Security number but with use of the names.

I feel that due to the long term effect of this invasion of my privacy no amount of money could compensate me for worry and fear of not knowing when someone would use my name and Social Security number to establish credit, a new identity, change my address, use my checking account or even get credit cards.

I have attached a copy of my hearing notices.

DATE: 8-1-97 /s/

[BUCK DOE]

STATE OF VIRGINIA

COUNTY OF WISE, To-Wit:

I, Donna M. Crouse, a Notary Public within and for the county and state aforesaid, do hereby certify that [Buck Doe] whose name is signed to the foregoing Affidavit, bearing date on the 1st day of August, 1997, has this day personally appeared before me and acknowledged the same in my county and state aforesaid.

Given under my hand this the 1st day of August, 1997.

My commission expires: 6/30/98.

/s/
NOTARY PUBLIC

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
BIG STONE GAP DIVISION

ROBERT DOE, aka VIRGINIA PRIVACY LITIGATION, et al.,	)	
Plaintiffs,	)	97-43-B
v.	)	
ALEXIS HERMAN, Acting Secretary of Department of Labor	)	
Defendant.	)	

Wednesday, May 6, 1998
Big Stone Gap, Virginia

The above-entitled matter came on to be heard before the Honorable Glen M. Williams, Judge of the United States District Court, Western District of Virginia, at the Federal Courthouse Building, Big Stone Gap, Virginia, beginning at 10:20 a.m., when there were present on behalf of the respective parties:

APPEARANCES:

For the Plaintiffs:

JOSEPH E. WOLFE, ESQUIRE
ROBERT J. MOTTERN, ESQUIRE
JERRY W. KILGORE , ESQUIRE

For the Defendants:

JULIE C. DUDLEY, ESQUIRE

* * *

Thereupon,

BUCK DOE,

a witness, was called for examination by counsel and after having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. KILGORE:

Q For the record, you have filed an action in this case against the Department of Labor for violation of your privacy rights using the name Buck Doe; is that correct.

A Right.

Q Have you previously filed for black lung benefits?

A I got it for about two years.

Q When was that?

A I'm not sure, but I'm thinking it was around '92 because I retired in '91.

Q How long have you worked in the mines?

A Thirty-six years.

Q You retired and you filed for black lung benefits; correct?

A I filed when we was on strike. I forget. Seems like it was around '90.

Q Probably '89?

A Could be, but anyway, I worked. We was on strike and I went back after the strike and tried to work about another year so I could get me a decent retirement.

Every little bit helps, but anyway, I drawed it for about two years. It seems like it was around '92.

Q Did there come a time when you stopped drawing?

A Yes, sir. They took it. They appealed. I drawed two years, maybe a little over two years, and then they took it.

Q Did you re-file for benefits?

A Yeah.

Q Did you then have a scheduled hearing for your benefits?

A Yeah.

Q Do you remember when your last hearing was scheduled for?

A It was a year ago this past February, the 18th day of February I believe.

Q So, that would be in February of 1996; correct?

A Six or seven. In other words, it was a year ago this past February.

Q Okay. I am going to approach you with what has previously been marked as Claimants' Exhibit Number 2 and ask if you have seen Claimants' Exhibit Number 2 before.

A You are talking about this?

Q Right, if you have received this.

A Oh, yes. Yes, sir.

Q That Claimants' Exhibit Number 2 basically is your notice of your hearing; correct?

A Yeah, uh-huh.

Q On those notice of hearings, does it have your name on it?

A Yeah.

Q Does it have your Social Security number on it?

A This one don't. Yeah, it does, too, right here. I'm sorry.

Q Does it have the names and Social Security numbers of a lot of other individuals on it?

A Yeah.

MR. KILGORE: If I could move the introduction of Claimants' Exhibit Number 2.

THE COURT: Very well. Introduced as Claimants' Exhibit 2.

BY MR. KILGORE:

Q When you got this notice, Buck, and I will call you Buck so it is not confusing, because everyone's name is Doe in this case.

When you got this, Buck, did you realize that every individual was receiving your Social Security number and the information, your address?

A Well, I don't have much education, but I did wonder why everybody was.

Q What is your educational background?

A I went to the sixth grade.

Q Have you read the Privacy Act in the United States Code?

A No.

Q Are you concerned, however, that your Social Security number was released to other individuals?

A Well, like I say, I don't have no education, but it did seem odd.

Q It seemed odd that your Social Security number was being—

A Everybody was on there.

Q What concerns, if any, do you have about your Social Security number being released?

A Well, I've heard of cases of people's Social Security number being used, but mine has not been used that I know of, but I have heard of cases where they have been, where people has got them and used them.

Q Do you worry about your number being used?

A Well, it bothered me, yeah.

Q On other matters, on your—do you have a checking account?

A I might have a few dollars. I don't know.

Q Do you have—I don't want you to tell me how much is in your checking account, but do you have information on your checks?

A No, really I don't. I'll tell you why. I have had a little money, you know, since I got out of Service, a little checking account. I don't write no checks, my wife does.

Q So, she has an account.

A Well, my name is on it, but I don't write no checks.

Q On those checking accounts or any other accounts that you may have, whether they be credit cards or other things, you choose, you would choose what information to provide to each one of those individuals; correct?

A Yeah.

Q If they ask for your Social Security number, you could make that determination?

A [Nodding head.]

Q In applying for black lung benefits, Buck, did the Department of Labor inform you that they were going to mail your Social Security number to individuals not involved in your case?

A No.

Q Did they inform you of any other release that they were going to make of your Social Security number?

A No.

Q Did you have any idea that they were going to mass mail your Social Security number to a host of individuals not involved in your particular action?

A No.

Q Do you object to those uses of your Social Security number?

A Would you repeat that again?

Q Do you object to those uses, to the Department using your Social Security number in those matters?

A I don't think no one should have nobody else's Social Security myself.

Q So, you object to those uses?

A Yes.

MR. KILGORE: All right. Thank you.

Answer the questions that Ms. Dudley might have.

CROSS-EXAMINATION

BY MS. DUDLEY:

Q Good morning, Buck.

A Good morning.

Q Buck, what information is on your checks.

A Well, this will probably be hard for you to believe and the Court to believe, I don't write no checks. I know our address is on it.

Q Your home address?

A Me and my wife's.

Q Okay. How about your phone number?

A I couldn't be—I couldn't tell you for sure to tell you the truth.

Q Is it a joint checking account such that your name and your wife's name is on it?

A Me and my wife.

Q Are you testifying that you just haven't looked at those checks in a long time so you couldn't possibly be able to say what information is on them?

A Can you repeat that, please?

Q Do you know positively whether or not the Social Security number and your wife's appears on those?

A I don't know but probably it is. To say yes or no, I don't know because I don't write no checks. I don't carry a check, don't have no credit cards.

Q Is your wife here in the courtroom with you?

A Ma'am?

Q Is your wife here in the courtroom?

A No, no.

Q So, you don't have a spare check on you?

A No.

Q Do you have a Virginia driver's license?

A [Nodding head]

Q What is the identifying number on your driver's license?

A You want the number?

Q Is it your Social Security number or another number?

A No.

Q When did you get that license?

A I would say about two months ago.

Q Why did you get that license?

A Well, like I say, I had heard of people's Social Security numbers being abused and I head that you could get it took off of your driver's license and that is when I did it. I believe I did it.

Q Two months ago you had your Social Security number as your driver's license number?

A Yes, ma'am.

Q Until two months ago, have you ever had anyone to use your Social Security number for anything?

A No, ma'am.

Q You testified, let me see if I can clear this up. First you said that you wondered why the Department of Labor was sending out your Social Security number along with every one of the others, but it didn't really bother you?

A Well, it bothered me, but like I say, I don't have no education for anything like that, but I understand a lot of stuff, but it bothered me the first time I seen it and everybody else's on it.

Q Did you talk to anyone about the fact that your Social Security number was going out and you had seen other people's Social Security numbers?

A Well, I talked to a few people that has had hearings. We would talk about it.

Q Did you ever complain to the Department of Labor, for instance, the Administrative Law Judge, that your Social Security number was on these hearing notices that they sent out?

A No.

Q Is that because it bothered you but it wasn't really something you were that concerned about?

A Well, when I seen it, it bothered me. The first hearing I had, that is when I noticed it and me and my wife talked about why should everybody's Social Security number and address, why didn't they send them out separately instead of putting a whole bunch of names on there with your Social Security and your address.

Q But you didn't complain to the Department of Labor?

A No.

Q And ask them about it?

A No, ma'am.

Q Did you fill out the application for benefits?

A No, ma'am.

Q Who filled it out for you?

A It was some lady that worked for the Department of Labor or the state or somebody. I don't know. She was a Gilliam lady, had an office in Wise, Virginia.

Q Okay. You applied twice; is that right?

You filed two claims or how many claims?

A Well, when I first applied was the first time. Then they took it later. I drawed a couple of years, maybe longer. Then I had to appeal or whatever to reapply. In December, last December, a letter, I got a letter saying they was giving it back to me, but I have not got nothing out of it. They say I owe them back pay.

Q Oh, goodness. They took back—

A It don't make sense, but—

Q Yeah. You filled out two separate application; is that right?

A Yes, ma'am.

Q All right. Did the person who helped you fill it out, did they read to you the Privacy Act notice on the other page?

A Did they read it to me?

Q Uh-huh.

A No.

Q Do you remember it being read to you?

A No, ma'am.

Q Do you read at all? Did they cast you in a corner to look over it or anything like that?

A Well, I can read a little, you know. I mean a lot of things that—something simple, I can read, very simple. I'll put it that way.

Q Do you remember reading over the form, the application form?

A No, ma'am. Like I say, the lady filled them out. I answered the questions she asked me and that was it.

MS. DUDLEY: Okay. That is all I have, Your Honor.

THE COURT: All right.

REDIRECT EXAMINATION

BY MR. KILGORE:

Q Buck, up until recently, did you have any idea that there was a law that controlled the information that the Department of Labor could actually release about you?

A No, I didn't know.

Q Did you want everyone in your community or everyone—did you want anyone else to know that you had applied for black lung benefits?

A Well, not really because it wasn't, you know, nobody's business really but me and my doctor's. He said it was important, he wanted it put in.

Q So, you wanted those that that were involved in your case to know?

A Yeah.

Q But no one else?

A Right.

Q If you wanted to pursue this case on your own, do you have the resources to hire your own attorney to pursue it on your own?

A I can't even go out, me and my wife and have a good meal.

MR. KILGORE: I have nothing else. Thank you.

RE-CROSS EXAMINATION

BY MS. DUDLEY:

Q Mr. Doe, Mr. Buck, I will call you Buck. Buck, when you got the first award of black lung benefits, did you talk about it?

Did you tell your other family members, your buddies, close friends?

A I'm sorry. You will have to repeat that, please.

Q When you got your first award of benefits, did you talk about receiving the money?

A Well, I did in my family.

Q How about the people you worked with?

A Well, maybe one other fellow.

Q I'm sorry?

A Maybe one other fellow that received black lung. I think I told him.

Q Okay. All right. Mr. Buck Doe, how did you find out about the Privacy Act other than it was on your form you filled out initially?

A Well, several years ago there was something mentioned on it. I watch C-Span a lot.

Q Uh-huh.

A If anybody was watching here today, they was watching last Wednesday, that was on C-Span. Paul, Senator Paul or Representative Pauls, that is his last name, out of Texas, he was talking about it.

Q The Privacy Act?

A Yes, ma'am. It was last Wednesday.

Q Before you filed suit, when did you find out about—

A Ma'am?

Q Before you filed this suit that you are involved in, how did you find out about the Privacy Act?

A Well, I mean, I have just heard people talk about it is all. Just discussed it with different people.

Q What specifically did they discuss?

A Ma'am?

Q What did they discuss?

A Well, it was the Privacy Act, everybody is not supposed to have your Social Security number.

Q Was it discussed among other people that are here in the courtroom today, the other members of this suit?

A Well, no, no. I discussed it with my lawyer.

Q Mr. Wolfe?

A Mr. Wolfe.

Q Mr. Wolfe—who represented you the first time you applied for benefits?

A Vernon Williams, the gentleman right over here.

Q All right. He is associated with Mr. Wolfe?

A Yes, ma'am.

Q All right. You didn't raise any complaint the first time you filled out benefits, about your Social Security number being on it?

A Ma'am?

Q You didn't raise any complaint or voice any complaint to Mr. Williams about your Social Security number being—

A No, ma'am.

MS. DUDLEY: All right.

MR. KILGORE: Your Honor, if I could ask one question from here.

THE COURT: That's fine.

MR. KILGORE: Buck, were you reluctant to complain about the use of your Social Security number at the same time you were applying for benefits?

THE WITNESS: Well, like I say, like I stated a while ago, I knowed it wasn't right for everybody's name to be on

there, but I didn't know how to go about it or what, but I did know that everybody's names and Social Security being put on there and so many different people getting it through the mail.

MR. KILGORE: All right. Thank you. I have no further questions, and he can be excused.

THE COURT: All right, Buck, you can be excused.

MR. WOLFE: I want to call Raymond. I want to call, I'm sorry, let's see, R.A. Doe or Raymond Doe.

MR. KILGORE: R.A. Doe.

MR. WOLFE: R.A. Doe. He has stepped out on me.

Okay. Let me call Dallas Doe.